

MINUTES

MILWAUKIE CITY COUNCIL AUGUST 3, 2004

CALL TO ORDER

Mayor Bernard called the 1939th meeting of the Milwaukie City Council to order at 6:30 p.m. in the City Hall Council Chambers. The following Councilors were present:

Council President Larry Lancaster
Councilor Joe Loomis

Councilor Deborah Barnes

Staff present:

Mike Swanson,
City Manager
Stewart Taylor,
Finance Director
Alice Rouyer,
Community Development and
Public Works Director
Larry Kanzler,
Police Chief

JoAnn Herrigel,
Community Services Director
John Gessner,
Planning Director
Paul Shirey,
Engineering Director

Willie Miller,
Facilities Maintenance Specialist

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Mr. Swanson announced he had excused the City Attorney from this session.

Mr. Swanson introduced Stewart Taylor, the City's new finance director.

Mayor Bernard received numerous calls from residents in the 40th Avenue and King Road area regarding the sidewalk project and tree removal. There will be public meetings to determine what can be done.

Mayor Bernard reviewed the events of the previous weekend's Riverfest Events. **Councilor Loomis** thanked the volunteers particularly the Historic Milwaukie Neighborhood and Ed Zumwalt for their efforts.

Advisory Board Interview

The City Council and Planning Commission Chair Donald Hammang interviewed Jeff Klein for a vacant position on the Planning Commission.

CONSENT AGENDA

Councilor Loomis requested that consent agenda items C – Ratification of AFSCME Contract and D – 2004 – 2005 Salary Schedule for Management/Non-Represented Employees be pulled for separate discussion.

It was moved by Councilor Barnes and seconded by Councilor Loomis to approve Consent Agenda items A, B, E and F. Motion passed unanimously among the members present.

- A. City Council Minutes of July 20, 2004;**
- B. Public Works Operations Building Steel Framing Setup;**
- E. Resolution 23-2004: A Resolution of the City of Milwaukie, Oregon, Adopting Fiscal Year 2004/2005 (Year Fifteen) Annual Waste Reduction Plan and Authorizing the City Manager to Sign an IGA with Metro; and**
- F. O.L.C.C. Application – Harrison Street Arco & Mini Mart – 4140 SE Harrison Street.**

Motion passed unanimously among the members present.

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

Annexation of Properties on Hill Street, File AN-04-01 – Ordinance

Mayor Bernard called the hearing to order at 6:45 p.m. This hearing was continued from July 20, 2004 at the request of City staff. The application is for annexation of eight lots, five of which are vacant, located on Hill Street east of Stanley Avenue.

The Planning Commission considered the request at its June 9, 2004 public hearing and recommended approval of the annexation proposal. This was a *de novo* hearing. All persons wishing to speak on the proposal were recognized.

The purpose of this hearing was to consider the Milwaukie Planning Commission's recommendation to approve the annexation request and related Comprehensive Plan and Zoning Ordinance amendments for an 8-lot site on Hill Street east of Stanley Avenue.

Mayor Bernard reviewed the order of business and conduct of the hearing.

Conflicts of Interest and Site Visits: **Mayor Bernard** visited the site.

Jurisdictional Issues: There were no objections to the Council's jurisdiction to consider the matter.

Correspondence: There was no additional correspondence other than what was included in the packet.

Staff Presentation: **Planning Director John Gessner** provided the correct map for page 22 of the staff report. Hill Street is located on the east side of Stanley Avenue south of Willow Street. The area to be annexed includes a total of eight tax lots. Hill Street dead ends as an unimproved right-of-way at Hollywood Street.

The purpose of the annexation is to provide City services to the lots that will be developed. The applicant is Darrin Williams on behalf of Prime Properties. In order for the development to take place, City services must be provided. The County cannot issue permits because all properties are within 300 feet of a serviceable sewer line located on Stanley Avenue. Consistent with land use policies, the preference is to take advantage of investment in City infrastructure before using alternate means of providing water and sewer services.

This area was likely subdivided in the 1920s or 1930s. By virtue of ownership, the existing lots have not been developed. Mr. Williams approached the property owners, and they were interested in selling. There is a shortage of land in the City, and it is increasingly difficult to build new houses. The staff report outlines the criteria that must be met for the City Council to approve an annexation. The Planning Commission did approve this annexation at a public hearing. The application is subject to review of City regulations that specifically involves annexation criteria. These are consistency with the Comprehensive Plan and state and regional regulations. The state and regional regulations are mostly procedural in nature. The recommendation is to designate the property medium density to conform to the surrounding properties in the Lewelling Neighborhood. Although the properties are less than 7,000 square feet, staff believes that is a better designation than R-10 or R-5 because it allows for reasonable development. The actual construction of homes will be consistent with the housing in the neighborhood. He briefly reviewed the resolution City Council adopted regarding the reimbursement district that addresses the financing and cost recovery for installing the sewer that is necessary for this annexation.

Mayor Bernard understood the applicant applied for a building permit through Clackamas County and asked if the City got its money back and who was inspecting the houses.

Mr. Gessner confirmed the applicant had applied for a permit through the County, and staff is working with the County on reimbursement. The County permit was issued in error, and it will perform the inspections. It was felt that with the amount of progress already made on the house, it would be appropriate for the County to continue the inspections. The annexation process will be complete in 15 – 20 days.

Councilor Lancaster understood there were eight lots ranging in square footage from 5,800 and 17,900. Does the City typically allow any lots in an R-7 zone to be below those standards?

Mr. Gessner replied any lot created today would have to meet the 7,000 square foot requirement. The original subdivision resulted in lots that were 58 and 59 feet wide by 100 feet. He understood the applicant intends to do a property line adjustment to make it smaller and create another lot.

Mayor Bernard understood some of the properties are on septic, and they will not be required to connect unless their systems fails.

Mr. Gessner said Engineering Director Paul Shirey is working on a code amendment that would allow a greater degree of flexibility.

Councilor Lancaster understood this property was zoned R-10, and the recommendation is to zone it down to R-7. Is this typical?

Mr. Gessner explained when the City adopted its annexation regulations an expedited annexation process was established. There is a legal provision that drives the decision over zoning. Statutes protect any previously platted lots from any change in zoning. In this instance, it made more sense to zone the property R-7.

Applicant's Presentation: **Darrin Williams**, Prime Properties, went into the area that was not in the best of shape and fixed up the existing houses and will build new ones. This will increase Milwaukie's tax base. These are legal lots of record. The 17,900 square foot lot was actually two lots of record. He will request a lot line change because of the existing home.

Mr. Williams added Hill Street has some beautiful trees, but he has to put in sidewalks. Removing those trees will terrorize the neighborhood. He suggested the City consider putting a sidewalk on only one side of the street to save some of the trees. Taking these out will result in loss of neighborhood integrity, but it is called development.

Mayor Bernard felt the City was willing to work on that and suggested he talk to the planning department.

Mr. Williams said he would mark them for removal but would do anything in an effort to save them. Sidewalks on one side of the street and a curb on the other would still make a proper road. He will submit his report to the planning department and be advised from there.

Councilor Lancaster suggested installing the sidewalks on one side and banking the money for the future sidewalk if conditions change.

Public Testimony: **Evelyn Stratton**, 5907 SE Hill Street, Milwaukie. She owns three lots that act as a wildlife preserve with native plants. The trees being discussed were originally on the property line as a hedge. She supported the idea of a sidewalk on the south side of Hill Street. She found out several years ago that the fence and a couple of her trees are actually in the right-of-way. She knows the birch will have to go. Most of the new construction is on the south side with only one on the north side. She added there is nothing wrong with her cesspool.

Scott Kauffman, 9878 SE Stanley Avenue, Milwaukie. He is also concerned about keeping the trees and the additional traffic. He suggested a convex mirror to help people can see potential traffic. Williams has improved the neighborhood immensely already. He discussed lot delineation and wanted to know where the new lot would be. He asked if the fence would eventually have to be moved.

Mr. Williams said latest survey on record is the one that will be recorded by the County.

Questions from City Council to Staff: **Mr. Gessner** clarified some of the issues. It may take the City 4 to 5 years before it has the funds necessary to make the street improvements. He will pass the information he heard at this meeting to the engineering department to ensure the project is done correctly in the future. The agreement with the County requires that the County either pave the street to a 20-foot, 2-inch asphalt overlay or to provide funds in lieu of that work. The City is working with the County to obtain those funds, likely next fiscal year. That money will be combined with the money the developer is required to pay for frontage improvements to program a capital project. The City will address the sight distance issue after annexation. No one wants to see those trees cut before it is necessary. Once the property is annexed into the City, any tree in the right-of-way requires a permit before it can be removed. He hopes to work with the neighbors to ensure it stays a pleasant street with tree canopy.

Mayor Bernard asked if Mr. Williams was building the sidewalks and curbs.

Mr. Gessner replied the City is not requiring the improvements be built at this time

Councilor Lancaster asked if there were any statutory timetables for that capital project.

Mr. Gessner was not aware of any. The city attorney would advise the city not to sit on those funds too long because it will be holding \$5,000 to \$7,000 for each new house. The developer could conceivably ask for his money back since the City is not using it. The City will want to do the project within a period of time that meets the needs of the street.

Councilor Lancaster understood that there was nothing pressing other than developer to make the City move forward with that project any time soon.

Mr. Gessner said aside from the zoning requirements adopted three years ago to get street improvements at the time of development, there would not be any particular pressure unless the neighbors decided they wanted the street improvements. Currently it is a narrow asphalt roadway, and the shoulders are in poor condition. Apart from what the city attorney might advise, there is little pressure to do the project immediately.

Mayor Bernard commented that the street improvements would increase the value of the properties.

Mr. Gessner replied that engineering has advised a minimum of five years.

Mr. Williams said after running the numbers, he started negotiating with Mr. Shirey. He was proposing to put sidewalks in on lot five and in front of an existing home. This would be a solid piece of development Milwaukie could tie into. If it is going to be up to five years, he might as well do the sidewalks now.

Close Public Hearing: It was moved by Councilor Barnes and seconded by Councilor Lancaster to close the public hearing. Motion passed unanimously among the members present. Mayor Bernard closed the public testimony portion of the hearing at 7:15 p.m.

Council Discussion and Decision: It was moved by Councilor Barnes and seconded by Councilor Lancaster for the first and second readings by title only and adoption of an ordinance approving annexation application AN 04-01 and related Comprehensive Plan and Zoning Ordinance amendments and adopt the recommended findings. Motion passed unanimously among the members present.

The city manager read the ordinance twice by title only.

The City Council was polled: Mayor Bernard and Councilors Lancaster, Loomis and Barnes aye; no nays; no abstentions. Motion passed unanimously among the members present.

ORDINANCE NO. 1933:

AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING A CERTAIN TRACT OF LAND INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM TERRITORY OF CLACKAMAS COUNTY R.F.P.D. # 1, CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT, CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS, AND ASSIGNING COMPREHENSIVE PLAN AND ZONING DESIGNATIONS FOR THE ANNEXED PROPERTY.

Mayor Bernard provided LUBA appeal information for parties with standing.

CITY COUNCIL REGULAR SESSION – AUGUST 3, 2004

Approved Minutes

Page 6 of 10

OTHER BUSINESS

A. Set Date for Transit Center Relocation Deliberations

The group discussed dates for the Transit Center Relocation deliberations. **Councilor Lancaster** suggested an October date. He indicated he was exploring some possibilities that he would like to finish before the City Council moves into the final decision-making process. Stan Link's development model has some serious potential and would require several meetings with regional representatives.

Councilor Barnes said, for the record, she believed that was a separate issue. The issue before the City Council is the one the Planning Commission and Working Group recommended. As far as she has been told, the Link discussion never happened with these bodies. Mr. Link's doing business with the City is a separate issue. People have made it clear they expect leadership and vision from the City Council. The City Council has heard from the public three times, and Councilor Barnes insisted the Council meet no later than next month to make a decision on this matter.

Councilor Lancaster disagreed and felt there was no rush to make the decision. The City Council needs to make sure it has looked at every opportunity. There was a meeting with ODOT, and the City Council has not had a chance to discuss the nature or full content of that meeting. He was convinced there were opportunities with the ODOT site that were never explored. The decision is too big with far reaching ramifications. Councilor Lancaster did not see a need for an expedited meeting.

Councilor Loomis agreed with Councilor Barnes. This is not being rushed. It has been a long process that started before he was on City Council. In all respect to Councilor Lancaster, he has been the one who seemed frustrated with government because it takes so much time and costs so much. Every meeting the City Council has and postpones costs taxpayers money. He was in favor of setting a date next month.

Mayor Bernard said no one is saying the decision has to be made next month. The City Council has not even talked about it yet. Mr. Link's proposal has not been part of the community process and would have to go back through. That is one of the alternatives the City Council has been considering.

Councilor Lancaster explained that was what he was trying to explore. Can Link's proposal really become a viable alternative? If it cannot, then he would abandon it and move on.

Councilor Barnes asked why Mr. Link had not brought this up during the meetings with the community group, TriMet, and the Planning Commission. Why now? Mr. Link is obviously a businessman, so why is he waiting so long? Is he trying to be a knight in shining armor?

Councilor Lancaster said he was driving this, not Mr. Link. He thought there was a genuine opportunity for a unique and creative way of integrating public transportation into economic development using federal dollars. He did not know if Mr. Link would make money on this personally. He is a small developer, and this is not a project he could take on alone. He is in the investment community where he might be able to bring a number of investors together on a public/private partnership to make it economically feasible. That is all of the discussion. This is not an avocation for Mr. Link; he simply brought the concept forward.

Councilor Barnes appreciated Mr. Link's interest. However, she believed it was a separate matter. The issue before the City Council is the one the public has spoken on many times. The City Council has a recommendation from City staff, the Planning Commission, and the Working Group. Now is the time for the City Council to make a decision. She proposed the City Council make the decision to meet and vote no later than next month.

Mayor Bernard asked Councilor Lancaster if scheduling a meeting for mid- to late September would give him adequate time.

Councilor Lancaster responded it might.

The group agreed to hold its deliberations on the transit center at the September 21, 2004 regular session at 6:00 p.m. in City Hall.

Mr. Swanson asked for clarification what the procedure would be.

Mayor Bernard said it would be City Council deliberation.

Mr. Swanson asked if there would be additional testimony from the floor, or would it be limited to City Council deliberations.

Mayor Bernard said City Council voted to close public testimony.

Councilor Lancaster would like to hear new information that was not brought forward earlier. He was not interested in repetition.

Councilor Barnes believed everyone who had something to say has spoken at least once. It is time for the City Council to decide.

Mayor Bernard agreed and was ready for deliberation.

Councilor Loomis was in favor of hearing new information from Councilor Lancaster.

Councilor Lancaster said he would know if there is anything worth pursuing before that meeting.

Mr. Swanson heard if there is new information, the hearing would be reopened. Is that new information from Council members?

There was consensus that this was correct – new information from Council members.

B. Advisory Board Appointments

Mayor Bernard, with the consensus of Council members, appointed Sharon Phillips to the Center/Community Advisory Board and Jeff Klein to the Planning Commission.

C. Items for Discussion from the Consent Agenda – Ratification of AFSCME Contract and 2004 – 2005 Salary Schedule for Management/Non-Represented Employees

Councilor Loomis was not able to attend the last meeting when this was approved by the City Council, so he wanted to talk about his concerns. The employees deserve a raise. The issue for him was whether or not the City could afford it. In the short time he has been here and on the Budget Committee, the City is running at a deficit and is into the contingency. His biggest concern is that the City might run into the situation like Portland Public Schools where functions like custodial services were outsourced to the detriment of all. The building department requested a 30% fee increase with 20% the year before. Ms. Rouyer testified that the departmental costs were all personnel. It is going to be harder to increase fees year after year. Even if we do not give well-deserving employees raises, there will be fee increases to meet the costs of doing business. He does not want to see any jobs lost or and citizens getting less service.

Councilor Lancaster observed it is a no-win situation. Milwaukie is not the highest paying municipality and tends to be on the lower end. The City has extremely high caliber employees. His biggest concern is that all of the cards have been played. We are into contingency again, which is a serious situation. There is a cost to maintaining quality programs. Next year when budgeting, we either dilute the programs we have, or we start cutting some of them back. That would mean a loss of personnel. If we do not compensate our employees, the best ones will leave. Then the City will be worse off than before.

Mayor Bernard said in the last round, one employee was lost and several retired. The fact is, costs are getting higher, and the City is going to lose employees. People are doing a lot more work in the same amount of time while providing better service.

Councilor Lancaster asked the city manager about financing development on a proprietary basis. The City will need to look at creative methods.

Councilor Loomis hoped the City would look at more ways to keep employees other than money. A 3% increase to employees is minimal to them, but the impact to the whole City is huge. He is really against losing jobs, because everybody loses.

Mayor Bernard commented that was a union decision.

Councilor Barnes said this contract was negotiated between the union and the City and is the best under the circumstances. Employees are now doing more because people have been lost. The union understands this is not a short-term situation. Every decision they make is something they will have to deal with down the road. Maybe with a change in leadership the economic situation will be even better for our City.

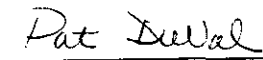
It was moved by Councilor Barnes seconded by Councilor Lancaster to approve consent agenda items C and D. Motion passed 3-1 with the following vote: Mayor Bernard and Councilors Barnes and Lancaster aye; Councilor Loomis no.

Mayor Bernard announced the National Night Out neighborhood events.

ADJOURNMENT

It was moved by Councilor Barnes and seconded by Councilor Loomis to adjourn the meeting. Motion passed unanimously among the members present.

Mayor Bernard adjourned the regular session at 7:40 p.m.



Pat DuVal, Recorder